

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

JESUS HILARIO-BELLO,

Defendant.
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/12/2019

Nos. 11 Cr. 755 (JFK)
19 Civ. 6964 (JFK)

ORDER

JOHN F. KEENAN, United States District Judge:

On June 23, 2016,¹ Christopher A. Flood entered an appearance as Defendant Jesus Hilario-Bello's counsel (ECF No. 361), pursuant to Chief Judge McMahon's June 8, 2016 Standing Order regarding habeas corpus petitions asserting claims under Johnson v. United States, 135 S. Ct. 2551 (2015) (ECF No. 364). The following day, June 24, 2016, Mr. Flood filed a motion to vacate Defendant's conviction pursuant to Johnson ("the 2016 Motion"). (ECF No. 362.) On February 2, 2018, the Court stayed the 2016 Motion pending final resolution of potentially relevant decisions of the United States Supreme Court and the Second Circuit Court of Appeals. (ECF No. 386.) The Court ordered the parties to notify the Court promptly upon the resolution of any pending decision that bears on the relief requested in the 2016 Motion. (Id.)

¹ Mr. Flood's June 23, 2016, notice of appearance (ECF No. 361) was incorrectly filed on the docket and he subsequently filed a proper notice of appearance, which was still dated June 23, 2016, on June 27, 2016 (ECF No. 363).

On April 30, 2019, the Second Circuit affirmed Defendant's conviction and transmitted its Mandate to the Court. (ECF No. 404.) On July 24, 2019, Defendant filed a pro se motion to vacate his conviction ("the 2019 Motion"). (ECF No. 412.) The Court ordered the Government to respond to the 2019 Motion by October 15, 2019. (ECF No. 416.)

On October 10, 2019, the Court granted the Government's letter request for additional time based on the Government's representation that Mr. Flood had asked the Government not to respond to the 2019 Motion until he had an opportunity to confer with Defendant regarding the 2019 Motion. (ECF No. 421.) The Court ordered Mr. Flood to file any amended papers by December 9, 2019, and ordered the Government to respond to the 2019 Motion no later than 30 days from the date any additional papers were filed by Defendant. (Id.)

On November 27, 2019, Defendant filed a pro se motion for a status update which included numerous assertions regarding Mr. Flood, including a request by Defendant to terminate Mr. Flood from representing him and to allow Defendant to proceed pro se. (ECF No. 426.) On December 9, 2019, Mr. Flood filed a letter motion to withdraw as Defendant's counsel. (ECF No. 429.) No additional papers amending the 2019 Motion were filed by Defendant or Mr. Flood on or before the December 9, 2019 deadline.

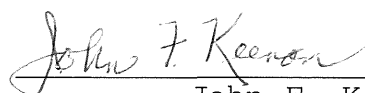
Mr. Flood's motion to withdraw as counsel (ECF No. 429) is DENIED, for now, because the 2016 Motion that he filed on Defendant's behalf is still pending before the Court. Defendant's request to proceed pro se (ECF No. 426), however, is GRANTED with respect to the 2019 Motion that Defendant filed pro se. The Court reiterates its February 2, 2018 Order that "the parties shall notify the Court promptly upon the resolution of any pending decision that bears on the relief requested in [the 2016 Motion]." (ECF No. 386.)

It is FURTHER ORDERED that the Government shall file an answer or other pleadings in response to the 2019 Motion by January 8, 2020. Defendant shall have thirty days from the date on which he is served with the Government's answer to file a response. Absent further order, the 2019 Motion will be considered fully submitted as of that date.

The Clerk of Court is directed to terminate the motions docketed at ECF Nos. 426 and 429.

SO ORDERED.

Dated: New York, New York
December 12, 2019



John F. Keenan
United States District Judge